

United States Senate

WASHINGTON, DC 20510

June 15, 2021

The Honorable Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Raimondo,

We write to urge the Department of Commerce to expeditiously identify “emerging and foundational technologies,” as mandated nearly three years ago by the Export Control Reform Act (ECRA).

The Chinese Communist Party (CCP) is executing a strategy of “Military-Civil Fusion” (MCF), in which notionally “private” Chinese companies acquire cutting-edge technology overseas in part to help the People’s Liberation Army (PLA) develop and field advanced military capabilities. In practice, MCF transforms the technology sector of the Chinese economy into a military-driven ecosystem, centrally coordinated by the CCP. We remain concerned that U.S. businesses export sensitive technologies to ostensibly civilian Chinese firms or accept investment from them only for these Chinese firms to promptly hand over this technology to the Chinese military or intelligence services.

In response to the CCP’s economic predation against the United States, Congress passed the bipartisan ECRA and the Foreign Investment Risk Review Modernization Act (FIRRMA) in August 2018. These laws reflected Congress’ belief that U.S. export control and foreign investment screening efforts must be more agile and should protect our most advanced and sought-after technologies. At the heart of both pieces of legislation was a requirement for the Department of Commerce to develop lists of “emerging and foundational technologies.” Such a mechanism allows the U.S. government to identify national security risks not covered by existing export controls, develop new corresponding controls under ECRA, and better equip the Committee on Foreign Investment in the United States (CFIUS) to protect these technologies from malign inbound investment.

For these reasons, we find the Department of Commerce’s slow pace of fulfilling its obligations under ECRA deeply troubling. While Commerce has taken steps to solicit expert advice and public comment on these lists, these efforts have only resulted in a limited set of controlled emerging technologies and omit many of the 45 potential emerging technologies that Commerce listed in an advanced notice of proposed rulemaking in November 2018. Commerce has yet to release a proposed list of foundational technologies.

So long as these lists remain incomplete and underutilized, the federal government will lack a properly functioning export control system and foreign investment screening process. American companies will continue to export advanced technologies to companies subject to CCP control,

despite the U.S. government wanting to restrict the export of these items. CFIUS may also be constrained in its ability to screen predatory Chinese investment in emerging and foundational technologies. This leaves the United States unacceptably vulnerable to China's economic predation.

We therefore urge the Department of Commerce to release these lists as soon as possible and abide by its duty to faithfully execute the laws passed by Congress. The Department of Commerce's unwillingness to implement these clear, essential mandates after nearly three years calls into question the department's central role in the U.S. export control system. If Commerce continues to delay its implementation of key national security priorities like the emerging and foundational technologies lists, Congress may be forced to consider entrusting these tasks and other export control authorities to a department that can approach trade and investment controls with the urgency required to safeguard our national security.

Thank you for considering this important matter of national security. We look forward to hearing from you.

Sincerely,



Tom Cotton
United States Senator



Thom Tillis
United States Senator



Rick Scott
United States Senator



Marco Rubio
United States Senator



John Cornyn
United States Senator



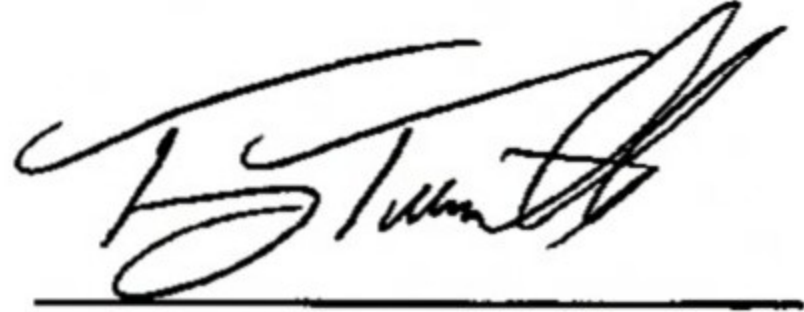
Ben Sasse
United States Senator



Cynthia Lummis
United States Senator



Todd Young
United States Senator

A stylized, handwritten signature in black ink, appearing to read 'T. Tuberville'.

Tommy Tuberville
United States Senator

A handwritten signature in blue ink, clearly legible as 'Mike Braun'.

Mike Braun
United States Senator